

REMARKS

With entry of the foregoing amendments, Claims 1-34 are now in the application. No claim has yet been allowed.

Claims 1-3, 5-6, 8, 17-19, 21, 22 and 24 were rejected under 35 U.S.C. §102(e) as supposedly being anticipated by Mosher, Jr., *et al.* (U.S. Patent Publication 2003/0173408 A1). We remind the Examiner that in order for there to be anticipation under 35 U.S.C. §102(e), each and every feature of the claim must be found in the Mosher prior art.

Mosher does concern the design of an identification appliance such as a wrist band that may have security features. These features include a fastener that indicates when the appliance has been attached to a wearer, and if so, enabling circuit functions. Furthermore, the fastener in Mosher is such that when one tampers with the appliance, circuit functions may be disabled. For example, in the description at paragraphs [0062] – [0063], Mosher contemplates that when a band 90 is torn, cut, or overly stretched, a conductor 99 can be arranged to break, “thereby disconnecting portions of the circuit 92”.

However, Mosher does not proceed to teach exactly how to arrange a device, such as Applicants' device, that permanently disables circuitry after the apparatus is first removed from the user. More particularly, Mosher does give some details of his intended disconnecting circuit, in connection with his Figure 19. The corresponding paragraph [0087] describes a method that he envisions for “disabling functions” with conductor or conductors 119 that may “span the length of the band 110 and be connected to the circuit 118”.

However upon a careful review of Mosher's Figure 19 and the text, one realizes that Mosher is connecting the conductor 119 to a transponder circuit 118 such that the circuit is actively informed that a break in wire has occurred, for example, by supplying a logic state input to the circuit 118 when the break occurs. Thus, while the identification function may be disabled by the break, other circuitry in the band actually still functions even after the break is made. In other words, the need for Mosher to supply a logic circuit function means that the circuitry in the Mosher wristband is actually still operating, even after the break in the wire is made.

As such, while Mosher explains that circuitry in his invention can be of a passive or an active configuration, it will be apparent to those skilled in the art that the example he actually gives, circuit 118, must be of the active variant. That is, circuit 118 in Mosher requires a power source in order to actively detect or "be informed" that a break in the conductor 119 has occurred.

Considering in further detail Figure 19 of Mosher, the conductor 119 is actually placed in parallel with a small wire portion of the circuit 118. Thus, the conductor 119 is coupled to the circuit 118 in such a way that a break in the conductor 119 does not actually stop current flowing in or through the circuit 118, and thus does not stop all operation of circuit 118. This is further evidence of the active detection and reporting nature intended by the circuitry in Mosher. Thus with the Mosher arrangement the circuitry does not actually become "permanently disabled" -- in fact other functions must continue to operate in order to actively detect the break in the wire.

In contrast to Mosher, the applicants' wristband design does not require or even allow any circuitry to continue functioning after the break - - that is what was meant by the requirement in Claim 1 that the identification device is permanently disabled. By use of the term "permanently disabled" in Claim 1, Applicants intend that no part of the circuitry is functioning ever again. Thus, "a disabling device, for permanently disabling" as recited in Applicants' Claim 1 means something different than "a device who has a function disabled" as in Mosher.

Thus, with the teachings of Mosher, one does not arrive at the design taught by applicant as recited in claim 1 which is:

a disabling device, for permanently disabling the identification device after the apparatus is first removed from the user.

We therefore believe that Claim 1 would not have been anticipated by Mosher.

Claims 2-3, 5-6, and 8 all depend from claim 1 either directly or indirectly and thus are likewise patentable for the same reasons.

Claim 17 is a method claim. It has been amended to require, similar to Claim 1, that the apparatus is permanently disabled and will no longer provide identification function ever again, once it is removed from the user.

Claims 18-19, 21, 22 and 24 depend from Claim 17 and should now also be allowable for the same reasons.

Claims 4 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Mosher in view of Peterson, *et al.* (U.S. Patent 5,448,846). Peterson may teach the use of a wrist band locking fastener using barbed pegs. However, Peterson does not supply the missing element of distinguishing feature of Applicants claim -- that being to permanently disable the user-worn identification device after the apparatus is first removed from the user. Thus, claims 4 and 20 are also patentable.

Claims 7, 9-16, 23 and 25-32 were also rejected as being under 35 U.S.C. §103(a) over Mosher in view of Gustafson (U.S. Patent No. 6,050,622). These claims depend from either Claim 1 or Claim 17 and add additional features. These claims are also patentable for the same reasons as Claims 1 and 17.

New Claim 33 depends from Claim 1. It further recites all circuitry in the identification apparatus to stop functioning

Supplemental Information Disclosure Statement

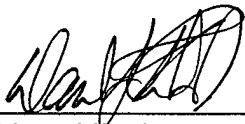
A Supplemental Information Disclosure Statement (IDS) is being filed concurrently herewith. Entry of the Supplemental IDS is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

David J. Thibodeau, Jr.
Registration No. 31,671
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated: 1/17/06